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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

Lucinda Marisse Martinez,

Plaintiff,

v.

Kilolo Kijakazi, Acting
Commissioner of Social Security,

Defendant.

Case No. 1:20-cv-00439-GSA

**STIPULATION FOR THE AWARD
AND PAYMENT OF ATTORNEY
FEES AND EXPENSES PURSUANT
TO THE EQUAL ACCESS TO
JUSTICE ACT; ORDER**

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of SIX THOUSAND FIVE-HUNDRED DOLLARS AND 00/100 (\$6,500.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. § 2412(d).

After the Court issues an order for EAJA fees to Plaintiff, the government will consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to

Astrue v. Ratliff, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine whether they are subject to any offset.

Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses and costs to be made directly to Counsel, pursuant to the assignment executed by Plaintiff. Any payments made shall be delivered to Plaintiff's counsel, Jonathan O. Peña.

This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney fees, and does not constitute an admission of liability on the part of Defendant under the EAJA or otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims that Plaintiff and/or Counsel including Counsel's firm may have relating to EAJA attorney fees in connection with this action.

This award is without prejudice to the rights of Counsel and/or Counsel's firm to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

Respectfully submitted,

Dated: September 22, 2021

/s/ *Jonathan Q. Peña*

JONATHAN O. PEÑA

Attorney for Plaintiff

Dated: September 22, 2021

PHILLIP A. TALBERT

Acting United States At

DEBORAH LEE STACHEL

Regional Chief Counsel, Region IX

1 Social Security Administration
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3 By: * Ellinor R. Coder
4 Ellinor R. Coder
5 Special Assistant U.S. Attorney
6 Attorneys for Defendant
7 (*Permission to use electronic signature
8 obtained via email on September 22, 2021).
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10 IT IS SO ORDERED.
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12 Dated: September 22, 2021
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14 /s/ Gary S. Austin
15 UNITED STATES MAGISTRATE JUDGE
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ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees and Expenses (the "Stipulation"),

IT IS ORDERED that fees and expenses in the amount of SIX THOUSAND FIVE-HUNDRED DOLLARS AND 00/100 (\$6,500.00) as authorized by the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.